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9
10 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 YOKO KATO,

16 Defendant.

Case No.

**COMPLAINT TO REDUCE CIVIL
PENALTY ASSESSMENTS TO
JUDGMENT**

17 Plaintiff, the United States of America (“United States”), through its undersigned
18 counsel, alleges the following:

19 **INTRODUCTION**

20 1. This is a timely civil action brought by the United States to collect the outstanding
21 unpaid civil penalty assessments against Yoko Kato (“Defendant”) for her failure to report her
22 interest in three foreign bank accounts, as required by 31 U.S.C. § 5314 and the implementing
23 regulations promulgated thereunder. Defendant is a U.S. person.
24

AUTHORIZATION FOR SUIT

2. This action is brought pursuant to 31 U.S.C. § 3711 at the discretion of the Secretary of Treasury of the United States and at the request of, and with the authorization of, the Acting Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States.

JURISDICTION AND VENUE

3. Jurisdiction over this action is conferred upon the district court by 28 U.S.C. §§ 1345, 1355.

4. Venue is proper under 28 U.S.C. § 1391(b)(1) because Defendant resides in this district. Alternatively, venue is proper under 28 U.S.C. § 1391(b)(2) as a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

INTRADISTRICT ASSIGNMENT

5. A substantial part of the events that gave rise to this action occurred in San Francisco, California as Defendant was a resident in San Francisco during the years at issue, and is believed to presently reside in San Francisco.

FOREIGN BANK OR OTHER FINANCIAL ACCOUNTS

6. Defendant had an interest in a foreign bank account, account number XXXX8160, at UBS (formerly Union Bank of Switzerland) in Hong Kong during at least 2006, 2007, and 2008.

7. Defendant had an interest in a foreign bank account, account number XXXX1758, at JPMorgan Funds Asia (formerly Jardine Fleming) in Hong Kong during at least 2006, 2007, and 2008.

1 8. Defendant had an interest in a foreign bank account, account number XXXX0673,
2 at Nomura Securities in Japan during at least 2006, 2007, and 2008.

3 9. The aggregate amount in each of Defendant's above-identified foreign bank
4 accounts exceeded \$10,000 in U.S. currency at any time during 2006.

5 10. The aggregate amount in each of Defendant's above-identified foreign bank
6 accounts exceeded \$10,000 in U.S. currency at any time during 2007.

7 11. The aggregate amount in each of Defendant's above-identified foreign bank
8 accounts exceeded \$10,000 in U.S. currency at any time during 2008.

9 12. Section 5314 of Title 31 of the U.S. Code, and the implementing regulations
10 promulgated thereunder, requires a person to keep records and file reports when that person
11 maintains a relation with a foreign financial agency. Such reports must be filed with the Internal
12 Revenue Service on Treasury Form TD F 90-22.1, Report of Financial bank and Financial
13 Accounts ("FBAR"). Section 5321(a)(5) of Title 31 provides for the imposition of civil penalties
14 for failure to comply with the reporting requirements of Section 5314.

15 13. Defendant failed to file FBARs to report her interest in the two Hong Kong
16 foreign bank accounts for each of the 2006, 2007, and 2008 years described in paragraphs 5 and
17 6, above.

18 14. Defendant failed to file FBARs to report her interest in the Japanese foreign bank
19 account for each of the 2006, 2007, and 2008 years described in paragraph 7, above.

20 **CLAIM FOR RELIEF:**
21 **REDUCTION OF CIVIL PENALTIES**
22 **AGAINST DEFENDANT YOKO KATO TO JUDGMENT**

23 15. The United States incorporates by reference paragraphs 1 through 14, above, as if
24 fully set forth here.

1 16. On March 10, 2015, a delegate of the Secretary of Treasury of the United States
2 of America made assessments against Defendant for the calendar year ending December 31,
3 2006, in the amount of \$30,000, for the accounts identified in paragraphs 5-7, above.

4 17. On March 10, 2015, a delegate of the Secretary of Treasury of the United States
5 of America made assessments against Defendant for the calendar year ending December 31,
6 2007, in the amount of \$30,000, for the accounts identified in paragraphs 5-7, above.

7 18. On March 10, 2015, a delegate of the Secretary of Treasury of the United States
8 of America made assessments against Defendant for the calendar year ending December 31,
9 2008, in the amount of \$30,000, for the accounts identified in paragraphs 5-7, above.

10 19. Defendant consented to extend the time to assess civil penalties for violations
11 provided by 31 U.S.C. § 5321 to be assessed at any time on or before December 31, 2015 for
12 financial accounts open during the calendar years ending December 31, 2006, December 31,
13 2007 and December 31, 2008 that were maintained with a financial institution located in a
14 foreign country. Thus, each assessment described in paragraphs 16-18 was timely made.

15 20. On March 10, 2015 a delegate of the Secretary of the Treasury of the United
16 States of America gave notice of the assessments described in paragraphs 16-18, above, to, and
17 made demand for payment of the assessments upon, Defendant.

18 21. Despite said notice and demand, Defendant has failed, neglected, or refused to
19 pay the amount of the assessments for years 2006, 2007, and 2008.

20 22. Interest accruals are provided for in 31 U.S.C. § 3717.

21 23. Defendant is liable for a penalty for failing to pay within 90 days in the amount of
22 6% per annum from March 10, 2015. 31 U.S.C. § 3717(e)(2).

A. Judgment against Defendant Yoko Kato in the amount of \$101,512.61, plus such additional amounts, including penalties and interest, which have accrued from January 5, 2017, and continue to accrue as provided by law; and

Respectfully submitted this 9th day of February, 2017.

/s/ Nithya Senra
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Trial Attorney, Tax Division
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